

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
MIDLAND/ODESSA DIVISION

DEBRA FRYMAN,

Plaintiff,

v.

LELAND DUDEK,

Acting Commissioner of Social

Security,¹

Defendant.

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MO:24-CV-00013-DC

ORDER

Before the Court is the report and recommendation from United States Magistrate Judge Ronald C. Griffin² concerning Plaintiff Debra Fryman's appeal of a final decision of the Commissioner of the Social Security Administration denying an application for disability benefits pursuant to 42 U.S.C. § 405(g).³ Pursuant to 28 U.S.C. § 636(b) and Appendix C of the Local Rules of the United States District Court for the Western District of Texas, Judge Griffin issued his report and recommendation on January 31, 2025.⁴ On February 18, 2025, Fryman noticed the Court that she was unable to timely file her objections due to an (earlier than planned) outage to the Western District of Texas CM/ECF website and moved for an

¹ Leland Dudek became the Acting Commissioner of Social Security on February 16, 2025. Pursuant to Rule 25(d) of the Federal Rules of Civil Procedure, Leland Dudek should be substituted for Michelle King as the defendant in this suit. No further action need be taken to continue this suit by reason of the last sentence of section 205(g) of the Social Security Act, 42 U.S.C. § 405(g).

² ECF No. 13.

³ ECF Nos. 5, 9.

⁴ ECF No. 13.

extension to file on Tuesday, February 18, 2025 following Monday's federal holiday.⁵ The Court recognized that CM/ECF went down prematurely and granted the extension request by text order. The Commissioner has filed her response to Fryman's objections.⁶

A party may serve and file specific, written objections to a magistrate judge's findings and recommendations within fourteen days after being served with a copy of the report and recommendation and, in doing so, secure *de novo* review by the district court.⁷ Because Fryman timely objected to portions of the report and recommendation, the Court reviews each portion *de novo*.

Fryman objects in two parts. First, she objects to the magistrate judge's determination that the ALJ decision reveals that she did not rely on her own interpretation of raw medical evidence and instead considered all the evidence.⁸ Second, she argues that the magistrate judge's perspective is not contained within the ALJ's decision and cannot be permissibly afforded to her.⁹ Both arguments are sparely supported, impermissibly raise new issues not placed before the magistrate judge for consideration,¹⁰ and ignore the magistrate judge's findings. The Court therefore overrules Fryman's objections and adopts the report and recommendation as its own order.

⁵ ECF No. 15.

⁶ ECF No. 17. The Court also issued an order adopting the magistrate judge's report and recommendation without objection. That order is **WITHDRAWN**. ECF No. 14.

⁷ 28 U.S.C. § 636(b)(1)(C).

⁸ ECF No. 16 at 2.

⁹ *Id.* at 3.

¹⁰ *SCVNGR, Inc. v. DailyGobble, Inc.*, No. 6:15CV493, 2018 WL 6589925, at *1 (E.D. Tex. Dec. 12, 2018) ("It is not appropriate to submit new evidence or to raise new arguments for the first time in written objections to a Report and Recommendation for review by the district judge absent compelling reasons") (citing, *Freeman v. County of Bexar*, 142 F.3d 848, 850 (5th Cir. 1998)).

Accordingly, the Court **ORDERS** that the Report and Recommendation of the United States Magistrate Judge¹¹ is **ADOPTED**. The Court's previous order is therefore **WITHDRAWN**.¹² The decision of the Social Security Commissioner is **AFFIRMED** and Plaintiff's appeal is **DISMISSED**.

It is so **ORDERED**.

SIGNED this 28th day of February, 2025.



DAVID COUNTS
UNITED STATES DISTRICT JUDGE

¹¹ ECF No. 13.

¹² ECF No. 14.